

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:17-cv-01309-WMR

American Civil Liberties Union of Georgia, Inc. et al v. U.S.
 Department of Homeland Security et al
 Assigned to: Judge William M Ray, II
 Cause: 05:0552 Freedom of Information Act

Date Filed: 04/12/2017
 Jury Demand: None
 Nature of Suit: 895 Freedom of
 Information Act
 Jurisdiction: U.S. Government Defendant

Plaintiff

**American Civil Liberties Union of
 Georgia, Inc.**

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Plaintiff

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Plaintiff

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Plaintiff

**American Civil Liberties Union of
 West Virginia, Inc.**

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V.

Defendant

U.S. Department of Homeland Security

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Defendant

U.S. Customs and Border Protection

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Emily B. Nestler
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TERMINATED: 04/05/2018

Matthew J. Berns
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TERMINATED: 12/27/2017

Date Filed	#	Docket Text
04/12/2017	<u>1</u>	COMPLAINT filed by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of West Virginia, Inc., American Civil Liberties Union of South Carolina, Inc. (Filing fee \$ 400 receipt number 113E-7084219.) (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B)(bnw) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 04/12/2017)
04/12/2017	<u>2</u>	Electronic Summons Issued as to U.S. Customs and Border Protection and U.S. Department of Homeland Security. (Attachments: # <u>1</u> Summons U.S. Department of Homeland Security)(bnw) (Entered: 04/12/2017)
04/13/2017		Notification of Docket Correction: Judge Duffey entered on case in error, case assigned to Jude Story (aar) (Entered: 04/13/2017)
04/13/2017	<u>3</u>	Certificate of Interested Persons by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Podolsky, Gail) (Entered: 04/13/2017)
04/13/2017	<u>4</u>	Court Notice Of Filing: Standing Order Regarding Civil Litigation by Judge Richard W. Story. (sk) (Entered: 04/13/2017)
05/08/2017	<u>5</u>	NOTICE of Appearance by Matthew J. Berns on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security (Berns, Matthew) (Entered: 05/08/2017)
05/08/2017	<u>6</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security of Motion filed with the JPM to Transfer Action Pursuant to 28 U.S.C. 1407 (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit 1 – Transfer Motion, # <u>3</u> Exhibit 2 – Supporting Memorandum, # <u>4</u> Exhibit 3 – Schedule of Actions)(Berns, Matthew) (Entered: 05/08/2017)
05/10/2017	<u>7</u>	Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond to Complaint with Brief In Support by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Text of Proposed Order)(Berns, Matthew) (Entered: 05/10/2017)
05/11/2017	<u>8</u>	ORDER granting <u>7</u> Motion for Extension of Time to Answer or Otherwise Respond to <u>1</u> Complaint. U.S. Customs and Border Protection Answer due 7/1/2017; U.S. Department of Homeland Security Answer due 7/1/2017. Signed by Judge Richard W. Story on 5/11/2017. (bdb) (Entered: 05/11/2017)
05/12/2017	<u>9</u>	MOTION to Stay Proceedings Pending Decision on Motion to Transfer with Brief In Support by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Brief)(Berns, Matthew) (Entered: 05/12/2017)
05/23/2017	<u>10</u>	Consent MOTION for Extension of Time to Respond to Defendants' Motion to Stay Proceedings Pending Decision on Motion to Transfer re: <u>9</u> MOTION to Stay Proceedings Pending Decision on Motion to Transfer by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Podolsky, Gail) (Entered: 05/23/2017)
05/24/2017	<u>11</u>	ORDER granting <u>10</u> Consent Motion for Extension of Time for Plaintiffs to Respond to <u>9</u> MOTION to Stay Proceedings Pending Decision on Motion to Transfer to 6/9/2017. Signed by Judge Richard W. Story on 5/24/2017. (bdb) (Entered: 05/24/2017)
06/06/2017	<u>12</u>	NOTICE Of Filing by U.S. Customs and Border Protection, U.S. Department of Homeland Security of JPMReply Brief (Attachments: # <u>1</u> JPMReply Brief)(Berns, Matthew) (Entered: 06/06/2017)

06/09/2017	<u>13</u>	RESPONSE in Opposition re <u>9</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> filed by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Podolsky, Gail) (Entered: 06/09/2017)
06/09/2017	<u>14</u>	NOTICE Of Filing by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc. of <i>Memorandum in Opposition filed with the JPML</i> (Attachments: # <u>1</u> Exhibit)(Podolsky, Gail) (Entered: 06/09/2017)
06/12/2017	<u>15</u>	NOTICE Of Filing by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc. re <u>13</u> Response in Opposition to Motion, <i>Exhibit A</i> (Attachments: # <u>1</u> Exhibit)(Podolsky, Gail) (Entered: 06/12/2017)
06/23/2017	<u>16</u>	REPLY BRIEF re <u>9</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Berns, Matthew) (Entered: 06/23/2017)
06/26/2017		Submission of <u>9</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> . Submitted to District Judge Richard W. Story. (bdb) (Entered: 06/26/2017)
06/26/2017	<u>17</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security of <i>Two Recent Decisions Granting Defendants' Stay Motions</i> (Attachments: # <u>1</u> Eastern District of Virginia Opinion)(Berns, Matthew) (Entered: 06/26/2017)
06/28/2017	<u>18</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security of <i>Recent Decision Granting Defendants' Stay Motion</i> (Attachments: # <u>1</u> Northern District of Illinois Order)(Berns, Matthew) (Entered: 06/28/2017)
06/29/2017	<u>19</u>	DOCUMENT FILED IN ERROR NOTICE by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc. of <i>Decisions</i> (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit)(Podolsky, Gail) Modified on 6/29/2017 per telephone call from counsel. Attorney will re-file. (fem). (Entered: 06/29/2017)
06/29/2017	<u>20</u>	NOTICE by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc. of <i>Decisions</i> (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Podolsky, Gail) (Entered: 06/29/2017)
06/29/2017	<u>21</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security of <i>Recent Decision in Related Case</i> (Attachments: # <u>1</u> Southern District of Florida Order)(Berns, Matthew) (Entered: 06/29/2017)
06/30/2017	<u>22</u>	Consent MOTION for Extension of Time to File Answer or <i>Otherwise Respond to Complaint</i> with Brief In Support by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Text of Proposed Order)(Berns, Matthew) (Entered: 06/30/2017)
06/30/2017	<u>23</u>	ORDER granting <u>9</u> Motion to Stay and denying as moot <u>22</u> Motion for Extension of Time to Answer. Signed by Judge Richard W. Story on 06/30/2017. (sek) (Entered: 06/30/2017)
07/31/2017	<u>24</u>	NOTICE of Appearance by Sean Young on behalf of American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc. (Young, Sean) (Entered: 07/31/2017)
08/02/2017	<u>25</u>	ORDER DENYING TRANSFER of MDL Panel (No. 2786) re: MOTION for Centralization of actions is denied. Signed by Multidistrict Litigation Chair, Sarah S. Vance. (bdb) (Entered: 08/03/2017)

08/07/2017	<u>26</u>	ORDER LIFTING STAY. On August 2, 2017, the JPML issued an order denying transfer of this action. Defendants are ORDERED to file their response to the Complaint not later than August 22, 2017. Signed by Judge Richard W. Story on 08/07/2017. (rsg) (Entered: 08/07/2017)
08/07/2017		Set Answer Deadline: U.S. Customs and Border Protection and U.S. Department of Homeland Security answer due 8/22/2017. (rsg) (Entered: 08/07/2017)
08/22/2017	<u>27</u>	ANSWER to <u>1</u> COMPLAINT by U.S. Customs and Border Protection, U.S. Department of Homeland Security. Discovery ends on 1/19/2018.(Berns, Matthew) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 08/22/2017)
08/29/2017	<u>28</u>	NOTICE of Appearance by Emily B. Nestler on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security (Nestler, Emily) (Entered: 08/29/2017)
09/20/2017	<u>29</u>	JOINT PRELIMINARY REPORT AND DISCOVERY PLAN filed by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Podolsky, Gail) (Entered: 09/20/2017)
10/04/2017	<u>30</u>	SCEDULING ORDER: The Court has reviewed the <u>29</u> Joint Preliminary Report filed by the parties. The parties are ORDERED submit a joint status report by October 27, 2017. Signed by Judge Richard W. Story on 10/04/2017. (rsg) (Entered: 10/05/2017)
10/27/2017	<u>31</u>	Consent MOTION for Extension of Time file Joint Status Report by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Attachments: # <u>1</u> Text of Proposed Order)(Podolsky, Gail) (Entered: 10/27/2017)
10/30/2017	<u>32</u>	ORDER granting <u>31</u> Motion for Extension of Time. The parties shall have through and including October 31, 2017 to file the Joint Status Report. Signed by Judge Richard W. Story on 10/30/2017. (dgr) (Entered: 10/30/2017)
10/31/2017	<u>33</u>	Consent MOTION for Extension of Time to file Joint Status Report by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Podolsky, Gail) (Entered: 10/31/2017)
11/01/2017	<u>34</u>	ORDER granting <u>33</u> Motion for Extension of Time. The Parties shall have through and including November 3, 2017, to file the Joint Status Report. Signed by Judge Richard W. Story on 11/01/2017. (dgr) (Entered: 11/01/2017)
11/03/2017	<u>35</u>	STATUS REPORT <i>Jointly Submitted</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Nestler, Emily) (Entered: 11/03/2017)
11/08/2017	<u>36</u>	ORDER: The Court will permit Defendants to proceed with the review and production as they propose. The parties should communicate in good faith to address concerns raised by Plaintiffs. Also, the Court will be willing to revisit Plaintiffs objections should the production be inadequate. Defendants shall submit a proposed schedule within 14 days, and Plaintiffs may file a response within 14 days thereafter. Signed by Judge Richard W. Story on 11/07/2017. (dgr) (Entered: 11/08/2017)
11/21/2017	<u>37</u>	PROPOSED ORDER Defendants' Proposed Production Schedule re: <u>36</u> Order., (Attachments: # <u>1</u> Exhibit A, Declaration of Patrick Howard)(Nestler, Emily) (Entered: 11/21/2017)
12/05/2017	<u>38</u>	RESPONSE re <u>37</u> Proposed Order in <i>Opposition to Defendants' Proposed Production Schedule</i> filed by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Podolsky, Gail) (Entered: 12/05/2017)

12/13/2017	<u>39</u>	ORDER: The Court, therefore, finds Defendants Proposed Production Schedule <u>37</u> inadequate. Instead, the Court ORDERS the following: 1. By no later than January 16, 2018, Defendants shall process no less than 1,000 pages of the records identified as potentially responsive to Plaintiffs FOIA request and (i) produce to Plaintiff all responsive, non-exempt records identified in this review and (ii) identify any asserted exemptions. 2. Each month thereafter, Defendants shall repeat this process, processing no less than 1,000 pages of the records identified as potentially responsive to Plaintiffs FOIA request and, by the 16th of each month, (i) produce to Plaintiff all responsive, non-exempt records identified in this review and (ii) identify any asserted exemptions. 3. By no later than June 17, 2018, Defendants shall have fully responded to Plaintiffs request, having reviewed all records identified as potentially responsive to Plaintiffs FOIA request and (i) produced to Plaintiff all responsive, non-exempt records identified and (ii) identified any asserted exemptions. 4. By June 17, 2018, the Parties shall submit a joint status report and proposed case schedule to the Court, addressing: (i) the status of Defendants response to Plaintiffs FOIA request; and (ii) a proposed briefing schedule for dispositive motions, if appropriate. Signed by Judge Richard W. Story on 12/13/2017. (rsg) (Entered: 12/13/2017)
12/26/2017	<u>40</u>	CERTIFICATE of Counsel <i>Certificate of Consent to Withdraw as Counsel</i> by Matthew J. Berns on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security (Berns, Matthew) (Entered: 12/26/2017)
02/12/2018	<u>41</u>	Unopposed MOTION for Extension of Time <i>for February Record Release</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Text of Proposed Order)(Nestler, Emily) (Entered: 02/12/2018)
02/13/2018	<u>42</u>	ORDER granting <u>41</u> Motion for Extension of Time for February Record Release. Defendants' February record release shall be enlarged through and including February 27, 2018. Signed by Judge Richard W. Story on 02/13/2018. (rsg) (Entered: 02/13/2018)
04/04/2018	<u>43</u>	NOTICE of Appearance by Rachael Westmoreland on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security (Westmoreland, Rachael) (Entered: 04/04/2018)
04/05/2018	<u>44</u>	CERTIFICATE of Counsel <i>Consent to Emily Nestler's Withdrawal</i> by Rachael Westmoreland on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security (Westmoreland, Rachael) (Entered: 04/05/2018)
06/15/2018	<u>45</u>	STATUS REPORT by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Westmoreland, Rachael) (Entered: 06/15/2018)
06/18/2018	<u>46</u>	ORDER: The parties propose that they be permitted to follow this course and submit another joint status report in 90 days. The parties request is granted. They shall submit another status report in 90 days, setting forth a briefing schedule should motions be required. Signed by Judge Richard W. Story on 06/18/2018. (dgr) (Entered: 06/18/2018)
09/14/2018	<u>47</u>	STATUS REPORT by American Civil Liberties Union of Georgia, Inc., American Civil Liberties Union of North Carolina, Inc., American Civil Liberties Union of South Carolina, Inc., American Civil Liberties Union of West Virginia, Inc.. (Podolsky, Gail) (Entered: 09/14/2018)
09/17/2018	<u>48</u>	ORDER: On September 14, 2018, the parties submitted their Joint Status Report <u>47</u> to the Court. After reviewing the Report, the Court enters the following Order. The parties are making good faith efforts to discuss Defendants' production and to resolve the case without motions practice. The parties propose that they be permitted to follow this course and submit another joint status report in 60 days. The parties' request is granted. They shall submit another status report in 60 days, setting forth a briefing schedule should motions be required. Signed by Judge Richard W. Story on 09/17/2018. (dgr) (Entered: 09/17/2018)
10/30/2018		Case Reassigned to Judge William M Ray, II. Judge Richard W. Story no longer assigned to case. NOTICE TO ALL COUNSEL OF RECORD: The Judge designation in the civil action number assigned to this case has been changed to 1:17-cv-01309-WMR. Please make note of this change in order to facilitate the docketing of pleadings in this case. (dgr) (Entered: 10/30/2018)

11/16/2018	<u>49</u>	JOINT STATUS REPORT by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Westmoreland, Rachael) (Entered: 11/16/2018)
12/04/2018		NOTICE of Hearing: Status Conference set for 1/31/2019 at 1:00 PM in ATLA Courtroom 1705 before Judge William M Ray II re <u>49</u> JOINT STATUS REPORT. (jkl) (Entered: 12/04/2018)